

**BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

**Mark Ruddick, M.D.
Certificate # G-29897**

Petitioner.

File No: 17-95-45569

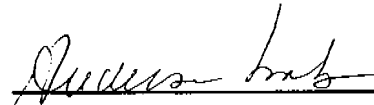
DECISION

The attached Stipulation is hereby adopted by the Division of Medical Quality of the Medical Board of California as its Decision in the above-entitled matter.

This Decision shall become effective on March 28, 1997.

It is so ordered February 26, 1997

**DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA**



**Anabel Anderson Imbert, M.D.
Chair
Panel B**

DANIEL E. LUNGREN, Attorney General
of the State of California
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BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	NO. 17-95-45569
Against:)	
MARK RUDDICK. M.D.)	STIPULATION FOR
1742 Silverwood Terrace)	SETTLEMENT
Los Angeles, CA 90026)	
Physician's and Surgeon's)	
Certificate No. G-29897)	
Respondent.)	

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

1. There is currently on file before the Medical Board of California (hereinafter "Board") an Accusation, dated February 23, 1996, a [First] Supplemental Accusation, dated April 15, 1996, and a Second Supplemental Accusation, dated August 15, 1996, in Case Number 17-95-45569, directed against Certificate Number G-29897, held by Mark Ruddick, M.D. (hereinafter "respondent").

2. Respondent acknowledges that he has been properly

1 served with said Accusation, [First] Supplemental Accusation and
2 Second Supplemental Accusation and has reviewed them with his
3 attorneys of record, O. Brandt Caudill, Esq. and Edward L.
4 Schumann, Esq. of the law firm of Callahan, McCune & Willis.

5 3. Respondent has discussed the instant stipulation
6 with counsel, including all admissions, stipulations and recitals
7 contained in the stipulation.

8 4. At all times relevant herein, respondent has been
9 licensed by the Board.

10 5. Respondent understands that but for this
11 stipulation he has the right to a hearing on the charges and
12 contentions in the Accusation, [First] Supplemental Accusation
13 and Second Supplemental Accusation, including the right to
14 confront and cross-examine the witnesses against him, the right
15 to counsel, the right to testify and present evidence in his own
16 behalf, the right to a written decision following the hearing,
17 the right to reconsideration, appeal and any and all other rights
18 accorded to him under the California Administrative Procedure Act
19 and the California Code of Civil Procedure.

20 6. Respondent freely, voluntarily, knowingly and
21 intelligently waives each of the rights set out at above numbered
22 paragraph 5.

23 7. Respondent stipulates as follows:

24 A. The facts alleged in paragraphs 1 and 2 of the
25 Accusation, paragraphs 1 through 4 of the [First] Supplemental
26 Accusation and paragraphs 1 through 5 of the Second Supplemental
27 Accusation are true and correct.

1 B. The allegations contained in paragraphs 9
2 through 21 of the Accusation, with the exception of subparagraphs
3 9-B, 9-C, 9-D (i.e., the quotation portion thereof only), 11-B,
4 15-A (i.e., the smoking marijuana in office portion thereof only)
5 and 15-B, to the effect that respondent has violated section
6 2234, subdivisions (b), (c) and (d) of the California Business
7 and Professions Code (hereinafter "Code"), are true.

8 C. As to the allegations contained in paragraphs
9 9 through 21 of the Accusation, respondent freely, voluntarily,
10 knowingly and intelligently waives the right to defend against
11 them.

12 D. As to the allegations contained in paragraphs
13 28 through 42, subparagraph B of the [First] Supplemental
14 Accusation, to the effect that respondent has violated section
15 2234, subdivisions (b), (c) and (d) of the Code, respondent
16 admits that a prima facie case exists as to them, and freely,
17 voluntarily, knowingly and intelligently waives the right to
18 defend against them.

19 8. Pursuant to the stipulations in above numbered
20 paragraph 7, respondent agrees that the Board may take
21 disciplinary action against Physician's and Surgeon's Certificate
22 Number G-29897 under the authority of sections 2222, 2228 and
23 2234 of the Code.

24 9. All stipulations, admissions and recitals contained
25 herein are made solely for the purpose of settling Case Number
26 17-95-45569, and may not be used in any other proceeding, except
27 a license denial or disciplinary proceeding maintained by a state

1 medical board or similar federal or other governmental agency.

2 10. In consideration of the foregoing admissions and
3 findings, the parties stipulate and agree that the Board shall,
4 without further notice or formal proceeding, issue and enter the
5 following order:

6 DISCIPLINARY ORDER

7 11. IT IS HEREBY ORDERED that Physician's and Surgeon's
8 Certificate Number G-29897, issued to Mark Ruddick, M.D., is
9 revoked. However, revocation is stayed and respondent's
10 certificate is placed on probation for seven (7) years on the
11 following terms and conditions:

12 A. As part of probation, respondent is suspended from
13 the practice of medicine for 60 days beginning the sixteenth
14 (16th) day after the effective date of the Decision and Order.

15 B. Within 60 days of the effective date of the
16 Decision and Order, and on a periodic basis thereafter as may be
17 required by the Division or its designee, respondent shall
18 undergo a psychiatric evaluation (with psychological and fluid
19 testing, if deemed necessary by the evaluator) by a Division-
20 appointed psychiatrist, who shall furnish an evaluation report to
21 the Division or its designee. The evaluation shall be tape
22 recorded by the evaluator, and respondent shall have the option
23 of tape recording the evaluation interview using his own
24 equipment. The respondent shall pay the cost of the initial
25 psychiatric evaluation.

26 If respondent is required by the Division or its
27 designee to undergo psychiatric treatment, respondent shall

1 within 30 days of the requirement notice submit to the Division
2 for its prior approval the name and qualifications of a
3 psychiatrist of respondent's choice. Respondent shall undergo
4 and continue psychiatric treatment until further notice from the
5 Division or its designee. Respondent shall have the treating
6 psychiatrist submit quarterly status reports to the Division or
7 its designee indicating whether the respondent is capable of
8 practicing medicine safely.

9 Respondent shall not engage in the practice of
10 medicine until notified by the Division or its designee of its
11 determination that respondent is mentally fit to practice safely,
12 and said notification to respondent shall be given prior to the
13 expiration of the suspension period set forth at above numbered
14 subparagraph 11.A.

15 Notification to the Division by respondent's
16 Division-approved psychiatrist that respondent is no longer in
17 need of psychiatric treatment shall enable the Division to either
18 terminate the psychiatric treatment requirement as a condition of
19 probation, or appoint its own psychiatrist to verify the opinion
20 of respondent's Division-approved psychiatrist prior to deciding
21 whether to continue or terminate the psychiatric treatment
22 requirement as a condition of probation.

23 C. Respondent shall take and pass an oral clinical
24 examination in the subject of psychiatry administered by the
25 Division, or its designee. This examination shall be taken
26 within 120 days after the effective date of this decision. If
27 respondent fails the first examination, respondent shall be

1 allowed to take and pass a second examination, which may consist
2 of a written as well as an oral examination. The waiting period
3 between the first and second examinations shall be at least 120
4 days. If respondent fails to pass the first and second
5 examinations, respondent may take a third and final examination
6 after waiting a period of one year. Failure to pass the oral
7 clinical examination within 18 months after the effective date of
8 the Decision and Order shall constitute a violation of probation.
9 The respondent shall pay the costs of the examinations.

10 If respondent fails to pass the first examination,
11 respondent shall be suspended from the practice of medicine until
12 a repeat examination has been successfully passed, as evidenced
13 by written notice to respondent from the Division or its
14 designee.

15 D. Respondent shall either cease and desist from the
16 examination and treatment of all female patients, except for
17 females involved in conjoint therapy and group therapy including
18 male patients, or restrict his examination and treatment of all
19 female patients, except for those involved in conjoint therapy
20 and group therapy including male patients, only when respondent
21 and the female patients are in the presence of a third party
22 witness preapproved by the Division or its designee and
23 answerable to it through said witness' presentation of quarterly
24 reports to the Division or its designee which shall list the
25 names and addresses of all female patients seen by respondent
26 during each quarter. As used herein the term "treatment"
27 includes the practice of issuing prescriptions for controlled

1 substances or administering, dispensing or transmitting same.

2 E. Respondent shall maintain a record of all
3 controlled substances prescribed, dispensed or administered by
4 respondent during probation, showing all the following: 1) the
5 name and address of patient, 2) the date, 3) the character and
6 quantity of controlled substances involved, and 4) the indication
7 and diagnoses for which the controlled substances were furnished.

8 Respondent shall keep these records in a separate
9 file or ledger, in chronological order, and shall make them
10 available for inspection and copying by the Division or its
11 designee, upon request.

12 F. Within 60 days of the effective date of the
13 Decision and Order, respondent shall enroll in the Prescribing
14 Practices course offered by the University of California at San
15 Diego and present proof of his enrollment to the Division or its
16 designee, and shall successfully complete the course during the
17 first year of probation.

18 G. Respondent shall abstain completely from the
19 personal use or possession of controlled substances as defined in
20 the California Uniform Controlled Substances Act, and dangerous
21 drugs as defined by Section 4211 of the Business and Professions
22 Code, or any drugs requiring a prescription. This prohibition
23 does not apply to medications lawfully prescribed to respondent
24 for a bona fide illness or condition by another practitioner.

25 H. Within 30 days of the effective date of the
26 Decision and Order, respondent shall submit to the Division or
27 its designee for its prior approval a plan of practice in which

1 respondent's practice shall be monitored by another physician in
2 respondent's field of practice, who shall provide quarterly
3 reports to the Division or its designee. The physician chosen by
4 respondent to monitor his practice must be approved by the
5 Division for this condition to be satisfied. This monitor's
6 quarterly reports to the Division shall evaluate respondent's
7 compliance with the conditions set forth herein related to the
8 treatment of female patients and the use and possession of all
9 controlled substances.

10 If the monitor resigns or is no longer available,
11 respondent shall, within 15 days, move to have a new monitor
12 appointed, through nomination by respondent and approval by the
13 Division or its designee.

14 I. Within 60 days of the effective date of the
15 Decision and Order, respondent shall enroll in a course in Ethics
16 approved in advance by the Division or its designee and present
17 proof of his enrollment to the Division or its designee, and
18 shall successfully complete the course during the first year of
19 probation.

20 J. Respondent shall obey all federal, state and local
21 laws, all rules governing the practice of medicine in California,
22 and remain in full compliance with any court ordered criminal
23 probation, payments and other orders.

24 K. Respondent shall submit quarterly declarations
25 under penalty of perjury on forms provided by the Division,
26 stating whether there has been compliance with all the conditions
27 of probation.

1 L. Respondent shall comply with the Division's
2 probation surveillance program. Respondent shall, at all times,
3 keep the Division informed of his addresses of business and
4 residence which shall both serve as addresses of record. Changes
5 in such addresses shall be immediately communicated in writing to
6 the Division. Under no circumstances shall a post office box
7 serve as an address of record.

8 Respondent shall also immediately inform the Division,
9 in writing, of any travel to any areas outside the jurisdiction
10 of California which lasts, or is contemplated to last, more than
11 thirty (30) days.

12 M. Respondent shall appear in person for interviews
13 with the Division, its designee or its designated physician(s)
14 upon request at various intervals and with reasonable notice.

15 N. In the event respondent should leave California to
16 reside or to practice outside the State or for any reason should
17 respondent stop practicing medicine in California, respondent
18 shall notify the Division or its designee in writing within ten
19 days of the dates of departure and return or the dates of non-
20 practice within California. Non-practice is defined as any
21 period of time exceeding thirty days in which respondent is not
22 engaging in any activities defined in Sections 2051 and 2052 of
23 the Business and Professions Code. All time spent in an
24 intensive training program approved by the Division or its
25 designee shall be considered as time spent in the practice of
26 medicine. Periods of temporary or permanent residence or
27 practice outside California or of non-practice within California,

1 as defined in this condition, will not apply to the reduction of
2 the probationary period.

3 O. Upon successful completion of probation,
4 respondent's certificate shall be fully restored.

5 P. If respondent violates probation in any respect,
6 the Division, after giving respondent notice and the opportunity
7 to be heard, may revoke probation and carry out the disciplinary
8 order that was stayed. If an accusation or petition to revoke
9 probation is filed against respondent during probation, the
10 Division shall have continuing jurisdiction until the matter is
11 final, and the period of probation shall be extended until the
12 matter is final.

13 Q. The respondent is hereby ordered to reimburse the
14 Division the amount of \$10,000 for its investigative and
15 prosecution costs. Respondent shall make payment in three equal
16 yearly installments. The first installment payment must be made
17 prior to the end of the twelfth month following the effective
18 date of the Decision and Order. The second installment payment
19 must be made prior to the end of the twenty-fourth month
20 following the effective date of the Decision and Order. The
21 third installment payment must be made prior to the end of the
22 thirty-sixth month following the effective date of the Decision
23 and Order. Failure to reimburse the Division's cost of its
24 investigation and prosecution in the manner set forth herein
25 shall constitute a violation of the probation order. The filing
26 of bankruptcy by the respondent shall not relieve the respondent
27 of his responsibility to reimburse the Division for its

1 investigative and prosecution costs.

2 R. The respondent's license shall not be affected by
3 section 16.01 of the Budget Act of 1996, related to Medi-Cal
4 reimbursement, unless he seeks reimbursement for "any surgical
5 service or other invasive procedure" performed by respondent.

6 S. Following the effective date of this decision, if
7 respondent ceases practicing due to retirement, health reasons or
8 is otherwise unable to satisfy the terms and conditions of
9 probation, respondent may voluntarily tender his certificate to
10 the Board. The Division reserves the right to evaluate the
11 respondent's request and to exercise its discretion whether to
12 grant the request, or to take any other action deemed appropriate
13 and reasonable under the circumstances. Upon formal acceptance
14 of the tendered license, respondent will no longer be subject to
15 the terms and conditions of probation.

16 CONTINGENCY

17 This stipulation shall be subject to the approval of
18 the Board. Respondent understands and agrees that Board staff
19 and counsel for complainant may communicate directly with the
20 Division regarding this stipulation and settlement, without
21 notice to or participation by respondent or his counsel. If the
22 Division fails to adopt this stipulation as its Decision and
23 Order, the stipulation shall be of no force or effect for either

24 ///

25 ///

26 ///

27 ///

1 party, shall be inadmissible in any legal action between the
2 parties, and the Division shall not be disqualified from further
3 action in this matter by virtue of its consideration of this
4 stipulation.

5 ACCEPTANCE

6
7 I have read the above Stipulation, Decision and Order,
8 understand their terms, and agree to be bound thereby.

9 DATED: 12-6-96

10 Mark Ruddick, M.D.
11 Mark Ruddick, M.D.
Respondent

12 DATED: 12/6/96

13 Edward L. Schumann
14 Edward L. Schumann
Attorney for Respondent

15
16
17
18 ENDORSEMENT

19 The attached stipulation is respectfully submitted for
20 the consideration of the Board.

21
22 DATED: 12/6/96

23 DANIEL E. LINGREN
Attorney General
State of California

24 Richard Avila
25 RICHARD AVILA
26 Deputy Attorney General
27 Attorneys for Complainant

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5 Attorneys for Complainant
6
7

8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 MEDICAL BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation) No. 17-95-45569
Against:)
13)
MARK RUDDICK, M.D.)
14 1742 Silverwood Terrace) A C C U S A T I O N
Los Angeles, CA 90026)
15)
Physician and Surgeon's)
16 Certificate No. G-29897)
17 Applicant/Respondent.)
18

19 PARTIES

20 The Complainant alleges:

21 1. Complainant, RON JOSEPH, is the Executive Director
22 of the Medical Board of California (hereinafter "Board") and
23 brings this accusation solely in his official capacity.

24 2. On or about July 1, 1975, Physician and Surgeon's
25 Certificate No. G-29897 was issued by the Board to Mark Ruddick,
26 M.D. (hereinafter "respondent") and at all times relevant to the
27 charges herein this license has been in full force and effect.

JURISDICTION

3. Pursuant to sections 2004, 2220, 2227 and 2234 of the Business and Professions Code (hereinafter "Code"), the Division of Medical Quality (hereinafter "Division") is authorized to take disciplinary action against any licensed physician and surgeon who is found guilty of violating any of the provisions of the Medical Practice Act.

4. Section 2227 of the Code provides that the Division may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act.

5. Section 2234 of the Code provides that the Division shall take action against any licensee who is charged with unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications,

functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have

1 warranted the denial of a certificate."

2 6. Section 125.3 of the Code provides, in pertinent
3 part, as follows: [¶] "(a) Except as otherwise provided by
4 law, in any order issued in resolution of a disciplinary
5 proceeding before any board within the department . . . , the
6 board may request the administrative law judge to direct a
7 licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs
9 of the investigation and enforcement of the case. [¶] (c) A
10 certified copy of the actual costs, or a good faith estimate of
11 costs where actual costs are not available, signed by the entity
12 bringing the proceeding or its designated representative shall be
13 prima facie evidence of reasonable costs of investigation and
14 prosecution of the case. The costs shall include the amount of
15 investigative and enforcement costs up to the date of the
16 hearing, including, but not limited to, charges imposed by the
17 Attorney General. [¶] (d) The administrative law judge shall
18 make a proposed finding of the amount of reasonable costs of
19 investigation and prosecution of the case when requested pursuant
20 to subdivision (a). The finding of the administrative law judge
21 with regard to costs shall not be reviewable by the board to
22 increase the cost award. The board may reduce or eliminate the
23 cost award, or remand to the administrative law judge where the
24 proposed decision fails to make a finding on costs requested
25 pursuant to subdivision (a). . . ."

26 7. Section 726 of the Code provides, in pertinent
27 part, as follows: "The commission of any act of sexual abuse,

1 misconduct, or relations with a patient, client, or customer
2 constitutes unprofessional conduct and grounds for disciplinary
3 action for any person licensed under this division [¶]
4 This section shall not apply to sexual contact between a
5 physician and surgeon and his or her spouse or person in an
6 equivalent domestic relationship when that physician and surgeon
7 provides medical treatment, other than psychotherapeutic
8 treatment, to his or her spouse or person in an equivalent
9 domestic relationship."

10 8. Section 729 of the Code provides, in pertinent
11 part, as follows: [¶] "(a) Any physician and surgeon,
12 psychologist, or any person holding himself or herself out to be
13 a physician and surgeon or psychotherapist, who engages in an act
14 of sexual intercourse . . . or sexual contact with a patient or
15 client, or with a former patient or client when the relationship
16 was terminated primarily for the purpose of engaging in those
17 acts, unless the physician and surgeon or psychotherapist has
18 referred the patient or client to an independent and objective
19 physician and surgeon or psychotherapist, recommended by a third-
20 party physician and surgeon or psychotherapist, for treatment, is
21 guilty of sexual exploitation by a physician or psychotherapist.
22 [¶] For purposes of subdivision (a), in no instance shall
23 consent of the patient or client be a defense. However,
24 physicians and surgeons shall not be guilty of sexual
25 exploitation for touching any intimate part of a patient or
26 client unless the touching is outside the scope of medical
27 examination and treatment, or the touching is done for sexual

1 gratification. [¶] (c) For purposes of this section:. . . (2)
2 'Sexual contact' means sexual intercourse or the touching of an
3 intimate part of a patient for the purpose of sexual arousal,
4 gratification, or abuse. [¶] (3) 'Intimate part' and 'touching'
5 have the same meanings as defined in Section 243.4 of the Penal
6 Code."

7 CAUSES FOR DISCIPLINARY ACTION

8 I.

9 Gross Negligence

10 9. Respondent is subject to disciplinary action under
11 section 2234, subdivision (b) of the Code for practicing in a
12 grossly negligent manner. The circumstances are as follows:

13 A. On or about August 26, 1994, R.K., a female
14 patient, presented to respondent at his place of practice with a
15 complaint of depression.

16 B. On or about September 2, 1994, R.K. presented
17 to respondent at his place of practice for continued psychiatric
18 treatment; and during the session respondent asked R.K. if she
19 was falling in love with him, to which she replied, "You bet."

20 C. On or about September 9, 1994, R.K. presented
21 to respondent at his place of practice for continued psychiatric
22 treatment; and during the session respondent and R.K. engaged in
23 hugging and kissing, and R.K. gave respondent a foot massage.

24 D. On or about September 16, 1994, R.K. presented
25 to respondent at his place of practice for continued psychiatric
26 treatment; and during the session respondent kissed R.K. and
27 stated the following: "We've become us, what are we going to do

1 about us? Do me a favor and fire me." R.K. replied, "Okay,
2 you're fired."

3 II.

4 Incompetence

5 10. For the reasons stated above at numbered paragraph
6 9, which is incorporated herein as if fully set forth, respondent
7 is subject to disciplinary action under section 2234, subdivision
8 (d) of the Code.

9 III.

10 Gross Negligence

11 11. Respondent is subject to disciplinary action under
12 section 2234, subdivision (b) of the Code. The circumstances are
13 as follows:

14 A. On or about September 23, 1994, or after R.K.
15 and respondent had agreed to terminate the patient-physician
16 relationship, R.K. presented to respondent at his place of
17 practice for continued psychiatric treatment, and during this
18 session respondent wrote prescriptions for R.K. to obtain
19 Ritalin, Diazepam and Hydrocodone.

20 B. On or about late September and early October
21 1994, after R.K. and respondent had agreed to terminate the
22 patient-physician relationship, R.K. was presented with a
23 prescription bottle of Wellbutrin by another patient of
24 respondent, and was informed by this fellow patient that
25 respondent had told him to give the Wellbutrin to her because the
26 patient no longer needed it.

27 / / /

1 C. On or about October 10, 1994, after R.K. and
2 respondent had agreed to terminate the patient-physician
3 relationship, respondent wrote a prescription for Ritalin for
4 R.K.

5 D. On or about October 11, 1994, after R.K. and
6 respondent had agreed to terminate the patient-physician
7 relationship, R.K. obtained Methyphen and Hydroco by presenting a
8 prescription from respondent to a pharmacy.

9 E. On or about December 31, 1994, after R.K. and
10 respondent had agreed to terminate the patient-physician
11 relationship, respondent issued a Ritalin prescription for R.K.

12 IV.

13 Incompetence

14 12. For the reasons stated above at numbered paragraph
15 11, which is incorporated herein as if fully set forth,
16 respondent is subject to disciplinary action under section 2234,
17 subdivision (d) of the Code.

18 V.

19 Gross Negligence

20 13. Respondent is subject to disciplinary action under
21 section 2234, subdivision (b) of the Code for practicing in a
22 grossly negligent manner. The circumstances are as follows:

23 A. During the period September through November
24 1994, respondent made social visits to R.K.'s home which included
25 conversations involving respondent's disclosure of his own
26 emotional concerns and problems, dining, dancing and kissing.

27 B. On one Sunday afternoon, on or about October

1 7, 1994, respondent brought his minor daughter to R.K.'s private
2 residence and introduced them to each other.

3 C. On or about October 28, 1994, respondent
4 unexpectedly brought two of his friends to R.K.'s residence
5 during which time they engaged in conversation with R.K.
6 regarding respondent's other romantic interests.

7 VI.

8 Incompetence

9 14. For the reasons stated above at numbered paragraph
10 13, which is incorporated herein as if fully set forth,
11 respondent is subject to disciplinary action under section 2234,
12 subdivision (d) of the Code.

13 VII.

14 Gross Negligence

15 15. Respondent is subject to disciplinary action under
16 section 2234, subdivision (b) of the Code for practicing in a
17 grossly negligent manner. The circumstances are as follows:

18 A. During the period September through November
19 1994, respondent and R.K. smoked marijuana together at his office
20 and her home.

21 B. During the period September through November
22 1994, respondent and R.K. took Ritalin together at his office and
23 her home.

24 VIII.

25 Incompetence

26 16. For the reasons stated above at numbered paragraph
27 15, which is incorporated herein as if fully set forth,

1 respondent is subject to disciplinary action under section 2234,
2 subdivision (d) of the Code.

3 IX.

4 Gross Negligence

5 17. Respondent is subject to disciplinary action under
6 section 2234, subdivision (b) of the Code for practicing in a
7 grossly negligent manner. The circumstances are as follows:

8 A. On or about September 26, 1994, respondent
9 displayed his .45 caliber handgun to R.K. during her psychiatric
10 session at his office.

11 B. On one occasion during the period September
12 through November 1994, in a late night telephone conversation,
13 R.K. had to plead with respondent for two hours to persuade him
14 away from committing suicide.

15 X.

16 Incompetence

17 18. For the reasons stated above at numbered paragraph
18 17, which is incorporated herein as if fully set forth,
19 respondent is subject to disciplinary action under section 2234,
20 subdivision (d) of the Code.

21 XI.

22 Gross Negligence

23 19. Respondent is subject to disciplinary action under
24 section 2234, subdivision (b) of the Code, in conjunction with
25 section 726 of the Code, for grossly negligent practice. The
26 circumstances are as follows:

27 On or about October 25, 1994, respondent engaged in

1 sexual intercourse with R.K. at her home.

2 XII.

3 Incompetence

4 20. For the reasons stated above at numbered paragraph
5 19, which is incorporated herein as if fully set forth,
6 respondent is subject to disciplinary action under section 2234,
7 subdivision (d) of the Code.

8 XIII.

9 Repeated Negligent Acts

10 21. Respondent is subject to disciplinary action under
11 section 2234, subdivision (c) of the Code for repeated negligent
12 acts. The circumstances are as follows:

13 A. The acts described above at numbered
14 paragraphs 9, 11, 13, 15, 17 and 19 are incorporated herein as if
15 fully set forth.

16 B. On or about October 11, 1994, respondent paid
17 over \$500.00 to purchase a round trip airline ticket for R.K.

18 C. During the period September through November
19 1994, respondent purchased food for R.K.

20 D. During the period September through November
21 1994, respondent left messages on R.K.'s telephone recording
22 machine which expressed his own troubled feelings (e.g., "My fate
23 hangs in the answer.")

24 XIV.

25 Act of Corruption

26 22. Respondent is subject to disciplinary action under
27 section 2234, subdivision (e) of the Code, in conjunction with

1 section 729 of the Code, in that he committed an act of
2 corruption. The circumstances are as follows:

3 A. The circumstances noted in above numbered
4 paragraphs 9, 15-A and B, and 19 are incorporated herein as if
5 fully set forth.

6 B. On or about September 16, 1994, respondent had
7 R.K. "fire him" as her physician so that respondent could pursue
8 an intimate relationship with R.K. Respondent engaged in this
9 conduct without having referred R.K. to an independent and
10 objective physician and surgeon or psychotherapist, recommended
11 by a third party physician and surgeon or psychotherapist, for
12 continued treatment.

13 C. On or about October 15, 1994, respondent
14 engaged in sexual intercourse with R.K. at her residence.
15 Respondent engaged in this conduct without having referred R.K.
16 to an independent and objective physician and surgeon or
17 psychotherapist, recommended by a third party physician and
18 surgeon or psychotherapist, for continued treatment.

19 XV.

20 General Unprofessional Conduct

21 23. Respondent is subject to disciplinary action under
22 section 2234 of the Code for the cumulative acts of misconduct
23 set forth in above numbered paragraphs 9 to 22, which are
24 incorporated by reference herein as if fully set forth.

25 //

26 ///

27 ///

1 PRAYER

2 WHEREFORE, complainant requests that a hearing be held
3 in this matter and that following such hearing, the Division of
4 Medical Quality issue a decision:

5 24. Revoking or suspending Physician and Surgeon's
6 Certificate No. G-29897, heretofore issued to respondent;

7 25. Order respondent to pay the Division the actual
8 and reasonable costs of the investigation and enforcement of this
9 case, pursuant to section 125.3 of the Code; and

10 26. Taking such other and further action as the
11 Division deems proper.

12 DATED: February 23, 1996

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16 RON JOSEPH, Executive Director
17 Medical Board of California
18 Department of Consumer Affairs
19 State of California

20 Complainant
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1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 RICHARD AVILA,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, 6th Fl.-South
4 Los Angeles, California 90013
Telephone: (213) 897-6804
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6 Attorneys for Complainant

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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation) No. 17-95-45569
Against:)
12)
13 MARK RUDDICK, M.D.)
14 1742 Silverwood Terrace)
15 Los Angeles, California 90026)
16 Physician and Surgeon's)
Certificate No. G-29897,)
Respondent.)
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19 PARTIES

20 The Complainant alleges:

21 1. Complainant, RON JOSEPH, is the Executive Director
22 of the Medical Board of California (hereinafter "Board") and
23 through his counsel, Daniel E. Lungren, Attorney General of the
24 State of California, by Richard Avila, Deputy Attorney General,
25 brings this supplemental accusation solely in his official
26 capacity.

27 2. On or about July 1, 1975, Physician and Surgeon's

1 Certificate No. G-29897 was issued by the Board to Mark Ruddick,
2 M.D. (hereinafter "respondent") and at all times relevant to the
3 charges herein this license has been in full force and effect.

4 3. On or about February 23, 1996, an accusation was
5 filed against respondent alleging violations of sections 726 and
6 2234, subdivisions (b), (c), (d) and (e), of the Business and
7 Professions Code, in connection with his treatment of R.K., his
8 patient.

9 4. On or about March 11, 1996, respondent filed a
10 notice of defense to the accusation.

11
12 JURISDICTION

13 27. Complainant incorporates by reference numbered
14 paragraphs 1 through 8 of the original accusation as if fully set
15 forth herein.

16
17 SUPPLEMENTAL CAUSES FOR DISCIPLINARY ACTION

18 I.

19 Gross Negligence

20 28. Respondent is subject to disciplinary action under
21 section 2234, subdivision (b) of the Code, in conjunction with
22 section 726 of the Code, for practicing in a grossly negligent
23 manner. The circumstances are as follows:

24 A. On or about September 22, 1993, R.M.H., a female
25 patient, presented to respondent at his place of practice with a
26 complaint of chronic depression, including a history of suicidal
27 ideation, insomnia, inability to concentrate, fatigue and family

1 dysfunction. She reported being under the care of psychiatrist
2 Alice Rudnick, M.D. and psychiatric social worker and therapist
3 Sharon Gedan. Respondent provided R.M.H. with Wellbutrin (75,
4 1/4 b.i.d.).

5 B. On or about September 27, 1993, R.M.H. presented to
6 respondent at his place of practice for continued
7 psychotherapeutic treatment; and during this consultation she
8 reported current suicidal ideation and revealed a history of
9 possible child sexual molestation by her father and an inability
10 to maintain stable, intimate relationships with heterosexual men.

11 C. On or after September 27, 1993, R.M.H. and
12 respondent agreed to terminate the psychiatrist-patient
13 relationship so they could commence a sexual relationship.

14 D. From on or about September 27, 1993 to May 31,
15 1994, R.M.H. was a frequent overnight guest at respondent's
16 apartment/loft which was located upstairs from his medical
17 office.

18 E. From on or about September 27, 1993 to May 31,
19 1994, R.M.H. and respondent attended social gatherings as a
20 couple.

21 F. On or about November 15, 1993, respondent wrote and
22 delivered a love note to R.M.H.

23 G. From on or about May 31 to June 1, 1994, respondent
24 informed R.M.H. that he was leaving her for another woman.

25 H. From on or about May 31 to June 1, 1994, R.M.H.
26 fatally overdosed on controlled substances while she was in
27 respondent's apartment/loft which was upstairs from his medical

1 office.

2 II.

3 Incompetence

4 29. For the reasons stated above at numbered paragraph
5 28, which is incorporated herein as if fully set forth,
6 respondent is subject to disciplinary action under section 2234,
7 subdivision (d) of the Code.

8 III.

9 Gross Negligence

10 30. Respondent is subject to disciplinary action under
11 section 2234, subdivision (b) of the Code for grossly negligent
12 conduct. The circumstances are as follows:

13 A. From on or about September 27, 1993, or after
14 R.M.H. and respondent had agreed to terminate the psychiatrist-
15 patient relationship, and continuing through May 1994, R.M.H.
16 presented to respondent at his place of practice for continued
17 psychotherapeutic treatment, which included respondent's
18 authorization of prescriptions for controlled substances during
19 the period from January through May 1994.

20 B. On or about January 14, 1994, after R.M.H. and
21 respondent had agreed to terminate the psychiatrist-patient
22 relationship, R.M.H. was presented with a prescription of
23 Wellbutrin by respondent.

24 C. On or about January 18, 1994, after R.M.H. and
25 respondent had agreed to terminate the psychiatrist-patient
26 relationship, respondent provided prescriptions for Propranolol
27 and Diazepam to R.M.H.

1 D. On or about January 21, 1994, after R.M.H. and
2 respondent had agreed to terminate the psychiatrist-patient
3 relationship, respondent provided a prescription for Zoloft to
4 R.M.H.

5 E. On or about March 11, 1994, after R.M.H. and
6 respondent had agreed to terminate the psychiatrist-patient
7 relationship, respondent provided a prescription for Wellbutrin
8 to R.M.H.

9 F. On or about March 26, 1994, after R.M.H. and
10 respondent had agreed to terminate the psychiatrist-patient
11 relationship, respondent provided prescriptions for
12 Methylphenidate and Lithium Carbonate to R.M.H.

13 G. On or about April 16, 1994, after R.M.H. and
14 respondent had agreed to terminate the psychiatrist-patient
15 relationship, respondent provided a prescription for Wellbutrin
16 to R.M.H.

17 H. On or about May 4, 1994, after R.M.H. and
18 respondent had agreed to terminate the psychiatrist-patient
19 relationship, respondent provided prescriptions of
20 Methylphenidate and Lithium Carbonate to R.M.H.

21 IV.

22 Incompetence

23 31. For the reasons stated above at numbered paragraph
24 30, which is incorporated herein as if fully set forth,
25 respondent is subject to disciplinary action under section 2234,
26 subdivision (d) of the Code.

27 ///

1 V.

2 Gross Negligence

3 32. Respondent is subject to disciplinary action under
4 section 2234, subdivision (b) of the Code for practicing in a
5 grossly negligent manner. The circumstances are as follows:

6 During the period September 22, 1993 through May 1994,
7 respondent commenced and continued to treat R.M.H. without ever
8 consulting R.M.H.'s preexisting psychiatrist and psychiatric
9 social worker in order to properly evaluate, diagnose and treat
10 R.M.H. for her recurrent depression.

11
12 VI.

13 Incompetence

14 33. For the reasons stated above at numbered paragraph
15 32, which is incorporated herein as if fully set forth,
16 respondent is subject to disciplinary action under section 2234,
17 subdivision (d) of the Code.

18 VII.

19 Gross Negligence

20 34. Respondent is subject to disciplinary action under
21 section 2234, subdivision (b) of the Code for practicing in a
22 grossly negligent manner. The circumstances are as follows:

23 A. On or about November 15, 1993, respondent, R.M.H.
24 and another of respondent's patients smoked marijuana and drank
25 alcohol together until they became intoxicated.

26 B. On a separate occasion, during the Spring of 1994,
27 respondent and R.M.H. attended a social gathering and appeared to

1 be under the influence of drugs.

2 VIII.

3 Incompetence

4 35. For the reasons stated above at numbered paragraph
5 34, which is incorporated herein as if fully set forth,
6 respondent is subject to disciplinary action under section 2234,
7 subdivision (d) of the Code.

8 IX.

9 Gross Negligence

10 36. Respondent is subject to disciplinary action under
11 section 2234, subdivision (b) of the Code for practicing in a
12 grossly negligent manner. The circumstances are as follows:

13 A. During the period September 27 through December
14 1993, respondent kept handguns in his office which he displayed
15 to R.M.H., a patient with a history of suicidal ideation.

16 B. During the period September 27 through December
17 1993, respondent kept handguns in his office and allowed R.M.H.,
18 a patient with a history of suicidal ideation, to have access to
19 them.

20 X.

21 Incompetence

22 37. For the reasons stated above at numbered paragraph
23 36, which is incorporated herein as if fully set forth,
24 respondent is subject to disciplinary action under section 2234,
25 subdivision (d) of the Code.

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1 XI.

2 Gross Negligence

3 38. Respondent is subject to disciplinary action under
4 section 2234, subdivision (b) of the Code for grossly negligent
5 practice. The circumstances are as follows:

6 On or about December 1993, respondent revealed his own
7 suicidal thoughts to R.M.H.

8 XII.

9 Incompetence

10 39. For the reasons stated above at numbered paragraph
11 38, which is incorporated herein as if fully set forth,
12 respondent is subject to disciplinary action under section 2234,
13 subdivision (d) of the Code.

14 XIII.

15 Gross Negligence

16 40. Respondent is subject to disciplinary action under
17 section 2234, subdivision (b) of the Code, in conjunction with
18 section 729, subdivision (a) of the Code, for grossly negligent
19 practice. The circumstances are as follows:

20 A. On or about September 27, 1993, respondent and
21 R.M.H. agreed to terminate the psychiatrist-patient relationship
22 and commence a sexual relationship.

23 B. The termination of the psychiatrist-patient
24 relationship by mutual agreement between respondent and R.M.H.
25 was not accompanied by a referral to an independent and objective
26 psychotherapist, recommended by a third-party physician and
27 surgeon or psychotherapist, for the continued treatment of

1 R.M.H.'s recurrent depression.

2 XIV.

3 Incompetence

4 41. For the reasons stated above at numbered paragraph
5 40, which is incorporated herein as if fully set forth,
6 respondent is subject to disciplinary action under section 2234,
7 subdivision (d) of the Code.

8 XV.

9 Repeated Negligent Acts

10 42. Respondent is subject to disciplinary action under
11 section 2234, subdivision (c) of the Code for repeated negligent
12 acts. The circumstances are as follows:

13 A. The acts described above at numbered paragraphs 28,
14 30, 32, 34, 36, 38 and 40 are incorporated herein as if fully set
15 forth.

16 B. On or about September 27, 1993 through May 31,
17 1994, respondent permitted R.M.H., a patient with a history of
18 chronic suicidal ideation, to have free access to his medical
19 office where controlled substances, lethal if taken in excess,
20 were stockpiled.

21 C. On or about March 30, 1995, Janice Trussell, an
22 undercover investigator posing as Suzanne Michaels, a patient
23 with depression and confusion regarding her direction in life,
24 presented to respondent who advised her that "men just fuck you
25 over and leave you."

26 D. On or about March 30, 1995, Janice Trusseil, an
27 undercover investigator posing as Suzanne Michaels, a patient

1 with depression and confusion regarding her direction in life,
2 presented to respondent who advised her "to take LSD or Speed or
3 something" if schooling didn't work.

4 E. On or about April 7, 1995, Janice Trussell, an
5 undercover investigator posing as Suzanne Michaels, a patient
6 with depression and confusion regarding her direction in life,
7 received a month's supply of Serzone samples from respondent,
8 which respondent failed to note in his chart for Suzanne
9 Michaels.

10 XIV.

11 Acts of Corruption

12 43. Respondent is subject to disciplinary action under
13 section 2234, subdivision (e) of the Code, in conjunction with
14 section 729 of the Code, in that he committed an act of
15 corruption. The circumstances are as follows:

16 A. The circumstances noted in above numbered
17 paragraphs 28, 34 and 40 are incorporated herein as if fully set
18 forth.

19 B. From on or about June 3, 1994, the date of R.M.H.'s
20 death from a drug overdose, through the end of June 1994,
21 respondent attempted to impede any official investigation of the
22 circumstances surrounding his relationship with R.M.H. by both
23 subtle and direct threats issued to individuals who were
24 witnesses to the dual relationship.

25 XV.

26 General Unprofessional Conduct

27 44. Respondent is subject to disciplinary action under

1 section 2234 of the Code for the cumulative acts of misconduct
2 set forth in above numbered paragraphs 28 to 43, which are
3 incorporated by reference herein as if fully set forth.

4 PRAYER

5 WHEREFORE, complainant requests that a hearing be held
6 in this matter and that following such hearing, the Division of
7 Medical Quality issue a decision:

8 1. Revoking or suspending Physician and Surgeon's
9 Certificate No. G-29897, heretofore issued to respondent;

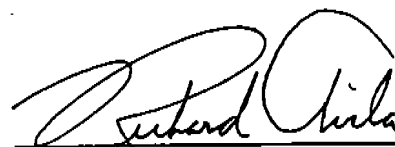
10 2. Order respondent to pay the Division the actual and
11 reasonable costs of the investigation and enforcement of this
12 case, pursuant to section 125.3 of the Code; and

13 3. Taking such other and further action as the
14 Division deems proper.

15 DATED: April 9, 1996

17 DANIEL E. LUNGREN
18 Attorney General of the
19 State of California

20 By



21 RICHARD AVILA
22 Deputy Attorney General

23 Counsel for Complainant
24
25
26
27

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 RICHARD AVILA,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, 6th Fl.-South
4 Los Angeles, California 90013
Telephone: (213) 897-6804

5 Attorneys for Complainant
6

7 BEFORE THE
DIVISION OF MEDICAL QUALITY
8 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA
10

11 In the Matter of the Accusation)	No. 17-95-45569
Against:)	OAH No. L-9607045
12)	SECOND SUPPLEMENTAL
MARK RUDDICK, M.D.)	ACCUSATION
13 1742 Silverwood Terrace)	
Los Angeles, California 90026)	
14)	
Physician and Surgeon's)	
15 Certificate No. G-29897,)	
16 Respondent.)	
17)	

18
19 PARTIES

20 The Complainant alleges:

21 1. Complainant, RON JOSEPH, is the Executive Director
22 of the Medical Board of California (hereinafter "Board") and
23 through his counsel, Daniel E. Lungren, Attorney General of the
24 State of California, by Richard Avila, Deputy Attorney General,
25 brings this second supplemental accusation solely in his official
26 capacity.

27 2. On or about July 1, 1975, Physician and Surgeon's

1 Certificate No. G-29897 was issued by the Board to Mark Ruddick,
2 M.D. (hereinafter "respondent") and at all times relevant to the
3 charges herein this license has been in full force and effect.

4 3. On or about February 23, 1996, an accusation was
5 filed against respondent alleging violations of sections 726 and
6 2234, subdivisions (b), (c), (d) and (e) of the Business and
7 Professions Code, in connection with his treatment of R.K., his
8 patient.

9 4. On or about March 11, 1996, respondent filed a
10 notice of defense to the accusation.

11 5. On or about April 16, 1996, a supplemental
12 accusation was filed against respondent alleging violations of
13 sections 726 and 2234, subdivisions (b), (c), (d) and (e) of the
14 Business and Professions Code, in connection with his treatment
15 of R.M.H., his patient.

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JURISDICTION

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45. Complainant incorporates by reference numbered
paragraphs 1 through 8 of the original accusation and numbered
paragraphs 1 through 4 of the supplemental accusation as if fully
set forth herein.

SUPPLEMENTAL CAUSES FOR DISCIPLINARY ACTION

I.

Gross Negligence

46. Respondent is subject to disciplinary action under
section 2234, subdivision (b) of the Code, in conjunction with

1 section 726 of the Code, for practicing in a grossly negligent
2 manner. The circumstances are as follows:

3 A. From on or about July 1993 through February 1996,
4 N.K., a female patient, received controlled substances from
5 Simon's Discount Pharmacy in Los Angeles through respondent's
6 prescribing authority. Among the thirty-one prescriptions
7 provided to N.K. by respondent during this period were
8 prescriptions for Wellbutrin, Propranolol, Diazepam,
9 Methylphenidate and Hydrocodone.

10 B. On or about June 1994, respondent admitted to Andre
11 Burke that he had known N.K. for many years and had been her
12 lover for the last four years. Respondent also admitted to
13 Burke, during the same conversation, that the fatal drug overdose
14 taken by his patient and lover, R.M.H., had been precipitated by
15 his disclosure to R.M.H. that he (respondent) would not be able
16 to continue as R.M.H.'s lover once N.K. returned to Los Angeles
17 from Florida.

18 C. On or about March 15, 1996, N.K. told Medical Board
19 Investigator Janice Trussell that she knew respondent as a
20 friend, but not as a lover or patient. N.K. admitted therein
21 that she had engaged in a telephone conversation with R.K.,
22 respondent's patient. N.K. admitted therein that she had engaged
23 in a telephone conversation with R.M.H., respondent's patient.

24 D. On or about May 21, 1996, N.K. gave a statement
25 under oath to respondent's attorney, which was attached to a
26 pleading captioned, "Opposition To Petition For Interim Order of
27 Suspension," signature dated June 6, 1996, wherein she admitted

1 being a resident of both Los Angeles, California and Miami,
2 Florida from on or about June 1991 to June 1995. N.K. admitted
3 therein that she had known respondent for eighteen to nineteen
4 years. N.K. admitted therein that she had received several
5 recorded telephone messages at her residence from respondent's
6 patient, R.K.. N.K. admitted therein that while respondent was a
7 dinner guest at her residence she had him listen to R.K.'s
8 recorded telephone messages, and then observed respondent use her
9 residential telephone to place a call to R.K. and conduct a
10 conversation with R.K. N.K. admitted therein that after
11 respondent had finished having his telephone conversation with
12 R.K. she (N.K.) engaged in a her own conversation with R.K. for
13 approximately two minutes. N.K. admitted therein that she
14 received a telephone call from respondent's patient, R.M.H., at
15 her residence in Miami, Florida, during which conversation R.M.H.
16 asked her (N.K.) why respondent hadn't called her (R.M.H.). N.K.
17 admitted therein that she had known Andre Burke for eight to nine
18 years.

19 E. On or about June 6, 1996, respondent signed a
20 declaration under penalty of perjury and attached it to a
21 pleading captioned, "Opposition To Petition For Interim Order of
22 Suspension." At numbered paragraph 7 of said declaration,
23 respondent states the following: "For some 15 to 20 years I have
24 known [N.K.]. Throughout that time our relationship has ranged
25 from being very close, both physically and emotionally, to being
26 just good friends due to physical separation. [R.M.H.] was well
27 aware of my relationship with [N.K.]. At one point I informed

1 [R.M.H.] that she would not be able to stay at my apartment as
2 often once [N.K.] returned from Florida to the Los Angeles area."

3 F. Andre Burke considered N.K. a good friend. He
4 first met respondent in 1992 or 1993 at a brunch where respondent
5 was accompanied by N.K. Andre Burke was also a good friend of
6 R.M.H., and the latter became his roommate in the spring of 1994.
7 On or about December 1993, R.M.H., who was then dating
8 respondent, mentioned N.K. to him and learned about his
9 friendship with N.K. On or about June 1994, N.K. informed him
10 that she had known respondent for many years and that she had
11 been living in Florida during the time that respondent was
12 involved with R.M.H.

13 II.

14 Incompetence

15 47. For the reasons stated above at numbered paragraph
16 46, which is incorporated herein as if fully set forth,
17 respondent is subject to disciplinary action under section 2234,
18 subdivision (d) of the Code.

19 III.

20 Gross Negligence

21 48. Respondent is subject to disciplinary action under
22 section 2234, subdivision (b) of the Code for grossly negligent
23 conduct. The circumstances are as follows:

24 A. On or about June 6, 1996, respondent procured a
25 declaration under penalty of perjury from Rhonda Cotton and
26 attached it to a pleading captioned, "Opposition To Petition For
27 Interim Order of Suspension," a public document.

1 B. The declaration from Rhonda Cotton states that she
2 has been respondent's patient since approximately November 1994.

3 C. The declaration from Rhonda Cotton describes the
4 character, habits, motivations and psychopathology of
5 respondent's former patient, R.K.

6 D. R.K. has never authorized Rhonda Cotton to release
7 information regarding her knowledge of R.K.'s character, habits,
8 motivations and psychopathology to respondent or the public in
9 general.

10 E. R.K. has never authorized respondent to question
11 Rhonda Cotton regarding the latter's knowledge of R.K.'s
12 character, habits, motivations and psychopathology.

13
14 IV.

15 Incompetence

16 49. For the reasons stated above at numbered paragraph
17 48, which is incorporated herein as if fully set forth,
18 respondent is subject to disciplinary action under section 2234,
19 subdivision (d) of the Code.

20 V.

21 Gross Negligence

22 50. Respondent is subject to disciplinary action under
23 section 2234, subdivision (b) of the Code for practicing in a
24 grossly negligent manner. The circumstances are as follows:

25 A. On or about June 6, 1996, respondent procured a
26 declaration under penalty of perjury from Gayle Nesby and
27 attached it to a pleading captioned, "Opposition To Petition For

1 Interim Order of Suspension," a public document.

2 B. The declaration from Gayle Nesby states that she
3 has been respondent's patient since 1994.

4 C. The declaration from Gayle Nesby describes the
5 character, habits, motivations and psychopathology of
6 respondent's former patient, R.K.

7 D. R.K. has never authorized Gayle Nesby to release
8 information regarding her knowledge of R.K.'s character, habits,
9 motivations and psychopathology to respondent or the public in
10 general.

11 E. R.K. has never authorized respondent to question
12 Gayle Nesby regarding her knowledge of R.K.'s character, habits,
13 motivations and psychopathology.

14 VI.

15 Incompetence

16 51. For the reasons stated above at numbered paragraph
17 50, which is incorporated herein as if fully set forth,
18 respondent is subject to disciplinary action under section 2234,
19 subdivision (d) of the Code.

20 VII.

21 Repeated Negligent Acts

22 52. Respondent is subject to disciplinary action under
23 section 2234, subdivision (c) of the Code for repeated negligent
24 acts. The circumstances described above at numbered paragraphs
25 46, 48, and 50 are incorporated herein as if fully set forth.

26 \\\

27 \\\

VIII.

General Unprofessional Conduct

53. Respondent is subject to disciplinary action under section 2234 of the Code for the cumulative acts of misconduct set forth in above numbered paragraphs 46 to 52, which are incorporated by reference herein as if fully set forth.

PRAYER

WHEREFORE, complainant requests that a hearing be held in this matter and that following such hearing, the Division of Medical Quality issue a decision:

1. Revoking or suspending Physician and Surgeon's Certificate No. G-29897, heretofore issued to respondent;
2. Order respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and
3. Taking such other and further action as the Division deems proper.

DATED: August 15, 1996

DANIEL E. LUNGREN
Attorney General of the
State of California

By



RICHARD AVILA
Deputy Attorney General
Counsel for Complainant